

108TH CONGRESS
2D SESSION

H. R. 4126

To provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Mr. WILSON of South Carolina (for himself, Mr. PAUL, Mr. ROGERS of Alabama, Mr. ISAKSON, Mr. DEMINT, Mr. CUNNINGHAM, Mr. FRANKS of Arizona, Mr. JONES of North Carolina, Mrs. BLACKBURN, Ms. GINNY BROWN-WAITE of Florida, Mr. KLINE, and Mr. RENZI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cockpit Security Tech-
5 nical Corrections and Improvements Act of 2004”.

6 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

7 Except as otherwise specifically provided, whenever in
8 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
 2 sion of law, the reference shall be considered to be made
 3 to a section or other provision of title 49, United States
 4 Code.

5 **SEC. 3. ELIGIBILITY FOR THE FEDERAL FLIGHT DECK OF-**
 6 **FICER PROGRAM.**

7 (a) IN GENERAL.—Section 44921(a) is amended to
 8 read as follows:

9 “(a) ESTABLISHMENT; DEFINITIONS.—

10 “(1) IN GENERAL.—The Secretary of Homeland
 11 Security shall establish the Federal flight deck offi-
 12 cer program to deputize eligible pilots as Federal
 13 law enforcement officers to defend against acts of
 14 criminal violence or air piracy. Such an officer shall
 15 be known as a ‘Federal flight deck officer’.

16 “(2) DEFINITIONS.—In this section:

17 “(A) AIR TRANSPORTATION.—The term
 18 ‘air transportation’ includes all-cargo air trans-
 19 portation.

20 “(B) PILOT.—The term ‘pilot’ means an
 21 individual who—

22 “(i) is employed by an air carrier that
 23 provides air transportation or intrastate
 24 air transportation; and

1 “(ii)(I) has final authority and re-
2 sponsibility for the operation and safety of
3 the flight; or

4 “(II) is otherwise a member of the
5 flight deck crew.

6 “(C) PROGRAM.—The term ‘program’
7 means the Federal flight deck officer program
8 established under paragraph (1).

9 “(D) SECRETARY.—The term ‘Secretary’
10 means the Secretary of Homeland Security.”.

11 (b) ELIGIBILITY CRITERIA.—Section 44921(d) is
12 amended to read as follows:

13 “(d) ELIGIBILITY.—

14 “(1) CRITERIA.—A pilot is eligible to be a Fed-
15 eral flight deck officer under this section if the
16 pilot—

17 “(A) submits an application to the Sec-
18 retary;

19 “(B) may lawfully transport in interstate
20 or foreign commerce, and possess in commerce
21 a firearm or ammunition under Federal law;

22 “(C)(i) has successfully completed the Fed-
23 eral flight deck officer training required by the
24 Secretary; or

“(ii) is eligible to be deputized prior to completing the Federal flight deck officer training pursuant to paragraph (2); and

“(D) presents a valid First-Class Airman Medical Certificate or Second-Class Airman Medical Certificate indicating that the pilot has met the mental standards prescribed in part 67 of title 14, Code of Federal Regulations, that applied on December 31, 2003.

“(2) EXCEPTION FOR CERTAIN PILOTS.—

“(A) IN GENERAL.—A pilot is eligible to be deputized prior to the pilot completing the Federal flight deck officer training if the pilot—

“(i)(I) is or has been an active or reserve member of the United States Armed Forces, the National Guard, or a Federal, State, or local law enforcement agency;

“(II) provides evidence of satisfactory completion of firearms training by an entity that is approved for requalification training under subsection (c) during the 12-month period ending on the date the Secretary receives the application submitted by the pilot; and

1 “(III) presents a valid First-Class
2 Airman Medical Certificate or Second-
3 Class Airman Medical Certificate indi-
4 cating that the pilot has met the mental
5 standards prescribed in part 67 of title 14,
6 Code of Federal Regulations, that applied
7 on December 31, 2003; or

8 “(ii)(I) during the 90-day period be-
9 ginning on the date the Secretary receives
10 the application submitted by the pilot, is
11 not offered Federal flight deck officer
12 training;

13 “(II) provides evidence of satisfactory
14 completion of firearms training by an enti-
15 ty that is approved for requalification
16 training under subsection (c)—

17 “(aa) during the 12-month period
18 ending on the date the Secretary re-
19 ceives an application submitted by the
20 pilot; or

21 “(bb) during the 120-day period
22 beginning on the date the Secretary
23 receives an application submitted by
24 the pilot; and

1 “(III) presents a valid First-Class
2 Airman Medical Certificate or Second-
3 Class Airman Medical Certificate indi-
4 cating that the pilot has met the mental
5 standards prescribed in part 67 of title 14,
6 Code of Federal Regulations, that applied
7 on December 31, 2003.

8 “(B) REQUIREMENT FOR TRAINING.—A
9 pilot who is eligible to be deputized prior to
10 completing the Federal flight deck officer train-
11 ing pursuant to this paragraph shall begin such
12 training not later than 180 days after the date
13 the pilot is deputized as a Federal flight deck
14 officer.

15 “(3) DEPUTIZATION BY OTHER FEDERAL AGEN-
16 CIES.—The Secretary may request another Federal
17 agency to deputize, as Federal flight deck officers
18 under this section, those pilots that the Secretary
19 determines are qualified to be such officers.

20 “(4) TIMING.—The Secretary shall immediately
21 deputize a pilot who is eligible under this subsection
22 as a Federal flight deck officer.

23 “(5) OTHER REQUIREMENTS.—The Secretary
24 may not impose any eligibility requirements for a
25 pilot to be deputized or remain deputized as a Fed-

1 eral flight deck officer other than the requirements
2 described in this subsection.”.

3 (c) CONFORMING AMENDMENT.—Section 44921 is
4 amended by striking subsection (k) and inserting the fol-
5 lowing:

6 “(k) APPLICABILITY.—This section shall not apply to
7 air carriers operating under part 135 of title 14, Code of
8 Federal Regulations, and to pilots employed by such car-
9 riers to the extent that such carriers and pilots are covered
10 by section 135.119 of such title or any successor to such
11 section.”.

12 (d) CONFORMING AMENDMENT.—Section
13 44921(b)(4) is repealed.

14 **SEC. 4. FEDERAL FLIGHT DECK OFFICER TRAINING AND**
15 **REQUALIFICATION TRAINING.**

16 (a) IN GENERAL.—Paragraph (1) of section
17 44921(c) is amended to read as follows:

18 “(1) IN GENERAL.—The Secretary shall provide
19 the training, supervision, and equipment necessary
20 for a pilot to be a Federal flight deck officer under
21 this section.”.

22 (b) TRAINING AND REQUALIFICATION REQUIRE-
23 MENTS.—Section 44921(c) is amended by adding at the
24 end the following new paragraphs:

1 “(3) INITIATION OF TRAINING.—The Secretary
2 shall—

3 “(A) not later than 30 days after the date
4 that the Secretary receives an application sub-
5 mitted by a pilot, determine if the pilot is eligi-
6 ble to receive Federal flight deck officer train-
7 ing under this title; and

8 “(B) if the pilot is eligible, not later than
9 90 days after the date that the Secretary re-
10 ceives an application submitted by the pilot,
11 begin training the pilot as a Federal flight deck
12 officer.

13 “(4) TRAINING BY OTHER ENTITIES.—The
14 training of a Federal flight deck officer may be con-
15 ducted by—

16 “(A) the Secretary;

17 “(B) the Director of the Federal Bureau of
18 Investigation; or

19 “(C) a private training facility approved by
20 the Secretary.

21 “(5) LOCATION OF TRAINING.—The Secretary
22 shall ensure that—

23 “(A) Federal flight deck officer training is
24 conducted at facilities located throughout the
25 United States; and

1 “(B) that a pilot who is eligible to receive
2 Federal flight deck officer training is offered a
3 choice of training locations and dates and is
4 provided at least 30 days advance notice of
5 such locations and dates.

6 “(6) REQUALIFICATION TRAINING.—

7 “(A) REQUIREMENT FOR REQUALIFICA-
8 TION.—The Secretary shall require a Federal
9 flight deck officer to successfully complete re-
10 qualification training. Such requalification
11 training shall occur at such intervals as may be
12 required by the Secretary.

13 “(B) REQUALIFICATION TRAINING BY
14 OTHER ENTITIES.—The requalification training
15 of a Federal flight deck officer may be con-
16 ducted by—

17 “(i) the Secretary;

18 “(ii) the Director of the Federal Bu-
19 reau of Investigation; or

20 “(iii) a private training facility ap-
21 proved by the Secretary under subpara-
22 graph (C).

23 “(C) PRIVATE TRAINING FACILITIES.—The
24 Secretary shall approve the application of a pri-
25 vate training facility to provide requalification

1 training to Federal flight deck officers if such
2 facility—

3 “(i) is approved by a Federal agency
4 or department to provide firearms training;

5 “(ii) provides a training course that
6 includes practical training in the firing of
7 a handgun with live ammunition, training
8 in the lawful and justifiable use of deadly
9 force, and—

10 “(I) qualifies Federal, State, or
11 local law enforcement officers, secu-
12 rity guards, or private investigators;
13 or

14 “(II) provides a certificate of
15 training or competence prior to the
16 issuance of a license or permit to
17 carry a handgun; or

18 “(iii) meets any other qualifications
19 determined in the Secretary’s discretion.

20 “(D) PUBLICATION OF REQUALIFICATION
21 TRAINING FACILITIES.—The Secretary shall
22 make readily available to pilots the list of facili-
23 ties approved to provide requalification training
24 under this paragraph. Such list shall also be
25 available through the Internet.

1 “(7) COSTS OF TRAINING.—

2 “(A) IN GENERAL.—The Secretary shall
3 provide Federal flight deck officer training or
4 requalification training to eligible pilots at no
5 cost to the pilots or the air carriers that employ
6 such pilots.

7 “(B) TRANSPORTATION AND EXPENSES.—
8 Except as provided in subparagraph (C), the
9 Secretary shall provide pilots receiving Federal
10 flight deck officer training or requalification
11 training, including training under subsection
12 (d)(2)(A)(ii)(II)(bb), travel expenses, including
13 per diem in lieu of subsistence, at rates author-
14 ized for employees of agencies under subchapter
15 I of chapter 57 of title 5, United States Code,
16 while away from their homes or regular places
17 of business for the purpose of receiving such
18 training.

19 “(C) UNPAID LEAVE.—An air carrier that
20 employs a pilot receiving Federal flight deck of-
21 ficer training or requalification training shall
22 permit the pilot to take unpaid leave to partici-
23 pate in such training.

24 “(8) PROHIBITION ON OTHER TRAINING RE-
25 QUIREMENTS.—The requirements for Federal flight

1 deck officer training or requalification training may
2 not exceed the requirements, including the length of
3 time of the training period, for successful completion
4 of such training that applied on December 31,
5 2003.”.

6 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

7 Section 44921(c)(2) is amended—

8 (1) in subparagraph (A), by striking “mar-
9 shals;” and inserting “marshals,”; and

10 (2) by striking subparagraph (C) and inserting
11 the following:

12 “(C) TRAINING IN USE OF FIREARMS.—In
13 order to complete training as a Federal flight
14 deck officer, a pilot must achieve the level of
15 proficiency with a firearm that is required by
16 the Secretary. Such level shall be comparable to
17 the level of proficiency required of other Fed-
18 eral law enforcement officers.”.

19 (d) REQUIREMENT TO PROMOTE REQUALIFICATION
20 FACILITIES.—

21 (1) IN GENERAL.—Not later than 30 days after
22 the date of enactment of this Act, the Secretary of
23 Homeland Security shall publish in the Federal Reg-
24 ister and use other appropriate methods to promote
25 and publicize the opportunity for private facilities to

1 provide requalification training to Federal flight deck
2 officers under section 44921(c)(6), as added by sub-
3 section (b).

4 (2) PURPOSE OF PROMOTION.—The purposes of
5 the publication and promotion described in para-
6 graph (1) are—

7 (A) to inform private facilities about the
8 Federal flight deck officer program; and

9 (B) to encourage such facilities to apply to
10 provide requalification training to Federal flight
11 deck officers.

12 **SEC. 5. AUTHORITY TO CARRY FIREARMS.**

13 (a) AMENDMENTS TO AUTHORITY.—Section
14 44921(f) is amended to read as follows:

15 “(f) AUTHORITY TO CARRY FIREARMS.—

16 “(1) IN GENERAL.—The Secretary shall author-
17 ize a Federal flight deck officer to carry a firearm
18 on the officer’s person. Notwithstanding subsection
19 (c)(1), the officer may purchase a firearm and carry
20 that firearm in accordance with this section if the
21 firearm is of a type that may be used under the pro-
22 gram.

23 “(2) PREEMPTION.—Notwithstanding any other
24 provision of Federal, State, or local law, a Federal

1 flight deck officer may carry a firearm in any State
2 and from one State to another State.

3 “(3) CARRYING FIREARMS OUTSIDE UNITED
4 STATES.—

5 “(A) IN GENERAL.—When operating to,
6 from, or within the jurisdiction of a foreign gov-
7 ernment where an agreement allowing a Fed-
8 eral flight deck officer to carry or possess a
9 firearm is not in effect, a Federal flight deck
10 officer shall be designated as a Federal air mar-
11 shal for the purposes of complying with inter-
12 national weapons carriage regulations and exist-
13 ing agreements with foreign governments.
14 Nothing in this paragraph shall be construed to
15 allow Federal flight deck officers to receive any
16 other benefit of being so designated.

17 “(B) REQUIREMENT TO NEGOTIATE
18 AGREEMENTS.—The Secretary of State shall
19 negotiate agreements with foreign governments
20 as necessary to allow Federal flight deck offi-
21 cers to carry and possess firearms within the
22 jurisdictions of such foreign governments for
23 protection of international flights against hi-
24 jackings or other terrorist acts. Any such agree-
25 ments shall provide Federal flight deck officers

1 the same rights and privileges accorded Federal
2 air marshals by such foreign governments.

3 “(4) DESCRIPTION OF AUTHORITY AND PROCE-
4 DURES.—The authority of a Federal flight deck offi-
5 cer to carry a firearm shall be identical to such au-
6 thority granted to any other Federal law enforce-
7 ment officer under Federal law. The operating pro-
8 cedures applicable to a Federal flight deck officer re-
9 lating to carrying such firearm shall be—

10 “(A) identical to such procedures applica-
11 ble to any other Federal law enforcement officer
12 under Federal law; and

13 “(B) no more restrictive than the restric-
14 tions for carrying a firearm that are generally
15 imposed on any other Federal law enforcement
16 officer who has statutory authority to carry a
17 firearm.

18 “(5) LOCKED DEVICES.—

19 “(A) NO REQUIREMENT TO USE.—A Fed-
20 eral flight deck officer may not be required to
21 carry or transport a firearm in a locked bag,
22 box, or container.

23 “(B) REQUIREMENT TO PROVIDE.—Upon
24 request of a Federal flight deck officer, the Sec-
25 retary shall provide a secure locking device or

1 other appropriate container for storage of a
2 firearm by the Federal flight deck officer.

3 “(6) AUTHORITY TO USE FORCE.—A Federal
4 flight deck officer shall have authority to use reason-
5 able and necessary force, including lethal force,
6 against an individual or individuals to defend an air-
7 craft, prevent terrorism, or otherwise defend life.

8 “(7) INFORMATION TO OTHER ENTITIES.—The
9 Secretary shall periodically provide information to
10 relevant airport officials and personnel, and Federal,
11 State, and local law enforcement authorities, regard-
12 ing the authority of a Federal flight deck officer to
13 possess and carry a firearm on the officer’s per-
14 son.”.

15 (b) INITIAL REQUIREMENT TO PROVIDE INFORMA-
16 TION.—Not later than 60 days after the date of enactment
17 of this Act, the Secretary of Homeland Security shall
18 make the initial periodic provision of information de-
19 scribed in section 44921(f)(6), as added by subsection (a).

20 **SEC. 6. LIMITATION ON AUTHORITY OF AIR CARRIERS AND**
21 **OTHER ENTITIES.**

22 Section 44921(j) is amended to read as follows:

23 “(j) LIMITATION ON AUTHORITY OF AIR CARRIERS
24 AND OTHER ENTITIES.—No air carrier or other entity or
25 individual shall prohibit or threaten any retaliatory action

1 against a pilot employed by the air carrier from becoming
 2 or serving as a Federal flight deck officer under this sec-
 3 tion. No air carrier or other entity or individual shall—

4 “(1) prohibit a Federal flight deck officer from
 5 piloting an aircraft operated by the air carrier;

6 “(2) terminate the employment of a Federal
 7 flight deck officer on the basis of his or her volun-
 8 teering for or participating in the program under
 9 this section; or

10 “(3) take other disciplinary action against or
 11 otherwise interfere with such pilot on the basis of
 12 such pilot’s volunteering for or participating in the
 13 program under this section.”.

14 **SEC. 7. AUTHORITY TO SUE.**

15 Section 44921, as amended by sections 3 through 6
 16 of this Act, is further amended by adding at the end the
 17 following new subsection:

18 “(1) **AUTHORITY TO SUE.**—

19 “(1) **IN GENERAL.**—A Federal flight deck offi-
 20 cer or a pilot who is adversely affected by a failure
 21 by the Secretary to comply with any of the require-
 22 ments of this section may file a petition for judicial
 23 review with the United States district court for the
 24 district in which the Federal flight deck officer or

1 pilot resides or has a principal place of business or
2 in the District of Columbia.

3 “(2) REMEDY.—If a United States court deter-
4 mines that the Secretary failed to comply with a re-
5 quirement of this section, the court shall order the
6 Secretary to take such action as may be necessary
7 to comply with such requirement.

8 “(3) ATTORNEY’S FEES.—In any action or pro-
9 ceeding brought under this subsection, the United
10 States court shall award a prevailing plaintiff rea-
11 sonable attorney’s fees incurred in bringing such ac-
12 tion or proceeding.”.

13 **SEC. 8. PRIVACY OF FEDERAL FLIGHT DECK OFFICERS.**

14 Section 44921, as amended by sections 3 through 7
15 of this Act, is further amended by adding at the end the
16 following new subsection:

17 “(m) PRIVACY OF FEDERAL FLIGHT DECK OFFI-
18 CERS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), the Secretary may not disclose informa-
21 tion related to a pilot’s participation in the Federal
22 flight deck officer program or the pilot’s application
23 to participate in such program.

24 “(2) EXCEPTIONS.—The Secretary may disclose
25 information described in paragraph (1)—

1 “(A) if the disclosure is required for the
2 administration of this section;

3 “(B) in response to a pilot’s request that
4 such information be disclosed to the air carrier
5 that employs the pilot, if—

6 “(i) the information is limited to the
7 information specifically requested by the
8 pilot; and

9 “(ii) such air carrier does not disclose
10 such information to third parties; or

11 “(C) in response to a request for a law en-
12 forcement agency to confirm if a pilot is depu-
13 tized as a Federal flight deck officer.

14 “(3) DISCLOSURE OF INFORMATION BY PI-
15 LOTS.—A pilot may disclose information as deter-
16 mined to be necessary by the pilot, including—

17 “(A) in connection with the pilot’s duties
18 as a Federal flight deck officer;

19 “(B) to any law enforcement officer, air
20 crew member, or legal advocate; and

21 “(C) in order to receive supplemental
22 training or equipment for use or to demonstrate
23 or maintain proficiency as a Federal flight deck
24 officer.”.

1 **SEC. 9. ADJUDICATION PROCEDURES.**

2 Section 44921, as amended by sections 3 through 8
3 of this Act, is further amended by adding at the end the
4 following new subsection:

5 “(n) ADJUDICATION PROCEDURES.—

6 “(1) DETERMINATION OF INELIGIBILITY AND
7 APPEAL.—

8 “(A) IN GENERAL.—If the Secretary deter-
9 mines that a pilot is ineligible to be a Federal
10 flight deck officer, or has become ineligible to
11 remain a Federal flight deck officer, the Sec-
12 retary shall provide in writing the specific rea-
13 sons to such pilot within 5 days of such deter-
14 mination. Such pilot may submit to the Sec-
15 retary information to correct, clarify, or supple-
16 ment any pertinent records relied on for the ad-
17 verse determination. After receipt of such infor-
18 mation, the Secretary shall immediately con-
19 sider the information, investigate the matter
20 further, correct all erroneous records relating to
21 such person, give notice of the error to any
22 Federal department or agency or any State that
23 was the source of such erroneous records, and
24 reconsider the adverse determination. Upon re-
25 quest by the aggrieved party, the Secretary
26 shall promptly hold a hearing at a location and

1 on a date convenient to the aggrieved party to
2 review the adverse determination.

3 “(B) PETITION.—If the Secretary fails to
4 reverse the adverse determination within 30
5 days after receipt of such information or within
6 30 days after any such hearing, whichever date
7 is later, the aggrieved party may at any time
8 within 60 days after the date such period ex-
9 pires file a petition with the United States dis-
10 trict court for the district in which the ag-
11 grievied party resides or has a principal place of
12 business or in the District of Columbia for a de
13 novo judicial review of such adverse determina-
14 tion. In a proceeding conducted under this sub-
15 section, the court may consider any evidence
16 submitted by the parties to the proceeding
17 whether or not such evidence was considered
18 previously. If the court decides that the Sec-
19 retary was not authorized to determine or in-
20 correctly determined that the aggrieved party is
21 ineligible to be a Federal flight deck officer, the
22 court shall order the Secretary to take such ac-
23 tion as may be necessary to comply with the
24 judgment of the court.

25 “(2) OTHER ADVERSE ACTION.—

1 “(A) REMEDIATION TRAINING AND SUS-
2 PENSION.—If a Federal flight deck officer
3 knowingly commits a serious or dangerous vio-
4 lation of standard operating procedures applica-
5 ble to Federal flight deck officers, the Secretary
6 may order remedial training or may suspend
7 such officer from the program for a period of
8 no more than 1 year. If a Federal flight deck
9 officer acts in a manner that is willfully and
10 grossly negligent in relation to acting as a Fed-
11 eral flight deck officer, the Secretary may order
12 remedial training or may suspend such officer
13 from the program indefinitely, except that the
14 suspended officer may seek reinstatement after
15 1 year. No other penalty may be imposed by the
16 Secretary.

17 “(B) PROCEDURES.—If the Secretary be-
18 lieves that remedial training or suspension of a
19 Federal flight deck officer is warranted under
20 this paragraph, the Secretary shall serve a writ-
21 ten statement of the pertinent allegations to the
22 Federal flight deck officer in question. If the
23 Federal flight deck officer contests the allega-
24 tions, the remedial training, or the suspension,
25 the matter shall be submitted for decision to a

1 review board. The officer who is the subject of
2 the hearing may be represented by counsel, a
3 union representative, or such other person of
4 the officer's choice. The review board shall con-
5 sist of—

6 “(i) a Federal flight deck officer who
7 shall be randomly selected and who is will-
8 ing to serve;

9 “(ii) a designee of the Secretary; and

10 “(iii) a representative of a neutral
11 third-party acceptable to both the officer
12 and the Secretary.

13 “(C) ADDITIONAL PROCEDURES.—The
14 hearing conducted by the review board may
15 take place no less than 14 days from the date
16 the written statement was served on the Fed-
17 eral flight deck officer. The hearing shall be
18 held at the officer's domicile or other location
19 reasonably convenient to the officer. The hear-
20 ing shall be held on a date which will not inter-
21 fere with the officer's work schedule. The Sec-
22 retary shall provide the officer with complete
23 discovery, including all pertinent documents and
24 all pertinent allegations not previously supplied
25 in the written statement. The Secretary shall

1 cause a recording to be made of the hearing
2 and shall promptly supply a copy of the record-
3 ing to the officer. The members of the review
4 board shall be reimbursed by the Secretary for
5 transportation and per diem as necessary. The
6 Secretary shall pay any reasonable rent or
7 charge necessary to use the premises where the
8 hearing is conducted.

9 “(D) FINDINGS OF REVIEW BOARD.—The
10 review board shall render findings of fact re-
11 garding the allegations and shall decide whether
12 any remedial training or period of suspension is
13 warranted. The Federal flight deck officer shall
14 not be required to take remedial training or be
15 suspended from duties as a Federal flight deck
16 officer unless and until the review board so de-
17 termines. The review board shall determine the
18 length, if any, of a suspension. No records or
19 information contained therein regarding any
20 matter arising under this subsection shall be
21 disclosed to the officer’s employer, the Federal
22 Aviation Administration, or any other person or
23 entity. If the review board determines that the
24 officer has substantially prevailed in the pro-
25 ceeding, the review board shall award the offi-

cer a reasonable attorney's fee, and the Secretary shall be liable therefore.

“(E) APPEAL OR REVIEW BOARD DECISION.—A Federal flight deck officer may appeal an adverse decision of the review board within 60 days after the decision by filing a petition with the United States district court for the district in which the officer resides or has a principal place of business or in the District of Columbia for a de novo judicial review of such adverse determination. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered previously. If the court decides that the review board's findings of fact regarding the allegations or decision imposing remedial training or a period of suspension were unwarranted, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.”.

SEC. 10. OTHER AUTHORITIES.

Section 44921, as amended by sections 3 through 9 of this Act, is further amended by adding at the end the following new subsections:

1 “(o) CREDENTIALS.—The Secretary shall issue to
2 each Federal flight deck officer standard Federal law en-
3 forcement credentials, including a distinctive metal badge,
4 that are similar to the credentials issued to other Federal
5 law enforcement officers.

6 “(p) ACTING AGAINST TERRORISM.—Nothing in this
7 title or any other provision of law shall prohibit a Federal
8 flight deck officer from acting reasonably to prevent an
9 act of terrorism or otherwise to defend life when outside
10 the flight deck of an aircraft.

11 “(q) SECURITY INSPECTIONS.—A Federal flight deck
12 officer may not be subject to greater routine security in-
13 spection or screening protocols at or in the vicinity of an
14 airport than the protocols that apply to other Federal law
15 enforcement officers.

16 “(r) FEDERAL FLIGHT DECK OFFICERS NOT ON
17 DUTY.—Nothing in this title or any other provision of law
18 shall be construed to prohibit a Federal flight deck officer
19 who is not on duty from carrying a firearm.

20 “(s) SENSITIVE SECURITY INFORMATION.—

21 “(1) ACCESS PROCEDURES.—Not later than
22 180 days after the date of enactment of the Cockpit
23 Security Technical Corrections and Improvements
24 Act of 2004, the Secretary shall, by regulation, es-
25 tablish procedures to govern access by Federal flight

1 deck officers to sensitive security information that
2 shall be binding upon all such flight deck officers.
3 Federal flight deck officers shall be given reasonable
4 and specific notice of the information deemed sen-
5 sitive security information by the Secretary.

6 “(2) UNIFORM MINIMUM STANDARDS.—The
7 Secretary shall establish uniform minimum stand-
8 ards to ensure that Federal flight deck officers
9 whose access to sensitive security information is
10 being denied or terminated are appropriately advised
11 of the reasons for such denial or termination and are
12 provided an adequate opportunity to respond to all
13 adverse information which forms the basis for such
14 denial or termination before final action by the de-
15 partment or agency concerned.

16 “(t) ACCESS TO SECURITY AND THREAT INFORMA-
17 TION.—The Secretary shall establish procedures to ensure
18 that Federal flight deck officers and in-flight security co-
19 ordinators have access to security directives, information
20 circulars, and other relevant threat and security informa-
21 tion. Such procedures may require the air carrier employ-
22 ing the Federal flight deck officer or in-flight security co-
23 ordinator to provide this information to such officers and
24 coordinators.

1 “(u) DISCLOSURES TO CONGRESS.—Nothing in this
 2 title or any other provision of law shall prevent a Federal
 3 flight deck officer from disclosing facts, data, procedures,
 4 or any other information about the Federal flight deck of-
 5 ficer program to a Member or committee of Congress.”.

6 **SEC. 11. REPORTS TO CONGRESS REGARDING THE FED-**
 7 **ERAL FLIGHT DECK OFFICER PROGRAM.**

8 (a) IN GENERAL.—Section 44921, as amended by
 9 sections 3 through 10 of this Act, is further amended by
 10 adding at the end the following new subsection:

11 “(v) REPORTS TO CONGRESS.—

12 “(1) REQUIREMENT.—Not less often than once
 13 every 3 months, the Secretary, in consultation with
 14 the Secretary of State, shall report to Congress on
 15 the Federal flight deck officer program carried out
 16 under this section.

17 “(2) CONTENT.—A report submitted under
 18 paragraph (1) shall include—

19 “(A) the number of pilots who have applied
 20 to the Federal flight deck officer program
 21 under this section;

22 “(B) the number of pilots deputized under
 23 the program;

24 “(C) any delays in training or deputizing
 25 Federal flight deck officers;

1 “(D) the criteria used to approve a facility
2 to provide requalification training to Federal
3 flight deck officers under subsection (c)(8)(C);

4 “(E) the number of facilities that have ap-
5 plied to provide such initial and requalification
6 training and the names of the facilities that are
7 approved to provide such initial and requalifica-
8 tion training; and

9 “(F) the progress that the Secretary of
10 State has made in implementing international
11 agreements that permit Federal flight deck offi-
12 cers to carry firearms on board an aircraft op-
13 erating within the jurisdiction of a foreign
14 country.”.

15 (b) INITIAL REPORT.—Not later than 60 days after
16 the date of enactment of this Act, the Secretary of Home-
17 land Security shall submit to Congress the initial report
18 required by section 44921(v), as added by subsection (a).

19 **SEC. 12. PROMOTION OF FEDERAL FLIGHT DECK OFFICER**
20 **PROGRAM.**

21 (a) REQUIREMENT TO PROMOTE.—Not later than 30
22 days after the date of enactment of this Act, the Secretary
23 of Homeland Security shall publish in the Federal Reg-
24 ister and use other appropriate methods to promote and
25 publicize the Federal flight deck officer program.

1 (b) PURPOSE OF PROMOTION.—The purposes of the
2 publication and promotion described in subsection (a)
3 are—

4 (1) to inform aircraft pilots about the Federal
5 flight deck officer program; and

6 (2) to encourage qualified pilots to apply to
7 enter the Federal flight deck officer training pro-
8 gram.

9 **SEC. 13. ADDITIONAL REPORTS TO CONGRESS.**

10 (a) DEPARTMENT OF JUSTICE FEASIBILITY RE-
11 PORT.—Not later than 90 days after the date of enact-
12 ment of this Act, the Attorney General shall submit to
13 Congress a report on the feasibility of the Department of
14 Justice to assume responsibility for administration of the
15 Federal flight deck officer program. Such report shall
16 identify the agency or bureau within the Department of
17 Justice which would be best suited to administer the Fed-
18 eral flight deck officer program.

19 (b) LAW ENFORCEMENT OFFICER VERIFICATION
20 SYSTEM.—Not later than 90 days after the date of enact-
21 ment of this Act, the Attorney General shall submit to
22 Congress a report on the status and feasibility of imple-
23 menting a program to verify the identity of personnel au-
24 thorized to carry firearms aboard commercial aircraft, in-
25 cluding the ability to implement such a system imme-

1 diately utilizing commercially available components and
2 existing technologies. Such report shall also include the
3 feasibility of using biometric identification to verify the
4 identity of authorized personnel.

5 **SEC. 14. CONFORMING AMENDMENTS.**

6 Section 44921, as amended by sections 3 through 11,
7 is further amended—

8 (1) by striking “Under Secretary of Transpor-
9 tation for Security” each place it appears and insert-
10 ing “Secretary”;

11 (2) by striking “Under Secretary” and inserting
12 “Secretary”; and

13 (3) by striking subsection (b).

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